IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:		§	
	Jonathan E. Lowthert et al.	§	Art Unit: 2623
		§	
Serial No.:	09/766,125	§	
		§	Examiner: Usha Raman
Filed:	January 19, 2001	§	
		§	
For:	Content with Advertisement	§	Atty Docket: BKA.0010US
	Information Segment	§	

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Commissioner for Patents
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REPLY BRIEF

This Reply Brief addresses the new arguments raised in the Answer.

Claim 62 calls for a transmitter "to transmit an info segment." The claim then defines what the transmitted info segment must include. The transmitted info segment must include a content identifier and "an interruption point specifier to identify a condition that, if detected during the display of a particular content item, will cause the display of an advertisement to replace the display of a particular content item." Neither Knepper or Rosenberg teach transmitting such a specifier.

While different positions are taken at different points of the Answer, the issue of whether the alleged specifier in either Rosenberg or Knepper is transmitted is not really addressed. With respect to Knepper, at one point the Answer admits that "Knepper however is silent on dynamic placement of advertisements and content such that when the replacement of content might happen is not known prior to the use of content." See Answer, page 4, lines 5-6. Then, surprisingly, at page 20, line 11, the Answer states "that Knepper fully anticipates the limitations of claim 62 the reasons stated above."

Neither Knepper or Rosenberg transmits a specifier to identify a condition that, if detected during the display of a particular content item, will cause the display of an advertisement to replace the display of the particular content item. The Answer argues that Knepper does teach some tags that control the display of content items. But even if those tags did such a thing (and they do not), those tags do not "identify a condition that, if detected during the display of the particular content item, will cause the display of an advertisement to replace the display of said one particular content item."

The Answer, despite its length, never really fully addresses this point. The Answer states this proposition categorically at page 3, lines 11-15, citing Knepper at paragraphs 80 and 81. Paragraph 80 says that if metatag EADOK is marked true then the show is allowed to accept media files. But paragraph 80 is explicit that "placement of the advertisement media files within the show can be indicated in one of two ways." One way is that "a content provider who provides the server with media content, can specify which clips may be preceded or followed by ads." Certainly, this does not indicate a condition that, if detected during the display of a particular content item, will cause the display of an advertisement to replace the display of said one particular content item. The other way specified in paragraph 80 "is that it may be allowable for ads to be placed randomly within a show." Again, random placement does not teach transmitting a specifier that specifies the placement of an ad upon the detection of a condition. Thus, the citation of paragraph 80 of Knepper demonstrates that Knepper does not teach the claimed limitation.

Cited paragraph 81 is similarly unavailing. It discusses an EMAXAD tag that may be used "to define the maximum number of ads that may be allowed to appear with a show." Certainly, such a tag does not identify a condition that, if detected during the display of a particular content item, will cause the display of an advertisement to replace the display of one particular content item.

Also, paragraph 81 refers to a CPI tag that "may be used to indicate specific advertisement media files that a content provider will allow in a show." Again, it is hard to see how such a tag could meet the claimed limitations.

Also, mentioned in paragraph 81 is a CPCLSI tag that "would indicate any category of content that the content provider would allow or requires to be associated with the show." Again, there is no way that such a tag could meet the claimed limitation. Also discussed is a

2

CPCLSE tag that "would indicate any category of content that a content provider would indicate is unacceptable for an advertisement within a show." Again, there is no way that such a tag would meet the claimed limitation.

Thus, the assertion on page 3 of the Answer that Knepper teaches the claimed limitation is unsupported. The Answer then goes on at great length, never again addressing the issue of whether there is a specifier "to identify a condition that, if detected during the display of a particular content item, will cause the display of an advertisement to replace the display of one particular content item," where that specifier is transmitted by the transmitter.

The Answer also makes the incorrect argument that "the claim language therefore suggests that the place and content where the replacement might happen is not known prior to use of the content item, not 'during the use of the content' as argued by appellant at page 13 of he Brief." See page 19 of the Answer. Claim 62 requires that "as a result of the detection of the condition during use of said one particular content item, is not known." The content item that is not known is detected during use. There is no basis to interpret this limitation as being not known prior to use. The language is explicit and normal grammar would suggest that "is not known" relates to "during use of said particular content item." For this additional reason, the limitation is not met by the claim as properly interpreted.

At the bottom of page 19 and the top of page 20, the Answer notes that Knepper discloses that "the location of advertisement media files within a show may be determined by various criteria at the time of playback." But this is contrary to what is claimed. The location of the ads is not determined in the claimed invention by various criteria at the time of playback.

The cited clause from Knepper is in paragraph 84.

> Further, during various playbacks of such a show, advertisement media files may be played with different entertainment media files. That is, the location of the advertisement media files within a show may be determined by various criteria at the time of playback.

What is being changed in Knepper is which advertisements are being played at which times on repeated playbacks. Thus, this approach could not have been specified by a specifier that was transmitted in the original transmission of the show. Moreover, there is no detection of a condition, as claimed. Each time the show is played again, advertisements may be played with different media files. But this does not suggest that there was a transmitted specifier that identifies a condition that, if detected during the display of a particular item, will cause the

3

display of the advertisement to replace the display of the particular content item. Here, there is clearly nothing that was transmitted that is used for this purpose.
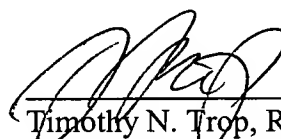
The Answer also cites paragraph 83 and the language "the client will make a real-time amendment to the instruction set, altering the requirement for permissible advertisement media files within the remainder of that show." The fact that the client will make a real-time amendment to the instruction set teaches away from the claimed invention. The claimed invention requires that the specifier be transmitted. The receiving device is not the one that must make the determination of the conditions that could be detected. It must be the transmitter that transmits the information. Thus, this language does not meet the claimed limitations.

On page 21, the Answer now argues that "Rosenberg was relied upon for teaching of detecting a pause condition during playback, upon the occurrence of which, an ad is displayed to the user." But that does not meet the claimed limitation that requires that a transmitter transmit an info segment that includes a specifier to identify a condition that, if detected during the display of a particular item, will cause the display of an advertisement to replace the display of the particular content item. According to the Answer, Rosenberg teaches simply putting in an advertisement whenever a pause is detected. The condition is not defined by an info segment that is transmitted to the receiver in Rosenberg. (The same deficiency exists in Knepper as variously conceded in the Answer).

Therefore, the rejection of the claims should be reversed.

Respectfully submitted,

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